

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
CGG VERITAS SERVICES (U.S.) INC.)	File No. 0003910489
)	
and)	
)	
PRO XPLOR SERVICES, INC.)	File No. 0003952441
)	
Requests for Waiver of Section 90.259(a) of the)	
Commission's Rules)	

ORDER

Adopted: July 7, 2010

Released: July 7, 2010

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us the above-captioned applications and associated requests for waiver filed by CGG Veritas Services (U.S.), Inc. (“Veritas”),¹ and Pro Xplor Services, Inc. (“Pro Xplor”).² Both applicants seek a waiver of the technical rules in Section 90.259 of the Commission’s Rules in order to permit certain proposed secondary telemetry operations. For the reasons set forth below, we deny the waiver requests and will dismiss the applications.

2. *Background.* Automated Maritime Telecommunications System stations have primary status in the 217/219 MHz portion of the 217-220 MHz band.³ Section 90.259 of the Commission’s Rules authorizes telemetry use of the 217-220 MHz band on a secondary basis,⁴ but limits the maximum transmitter output power to two watts, and provides that channel bandwidth exceeding fifty kilohertz may be assigned only upon a showing of adequate justification.⁵

3. In 2008, Veritas, a provider of seismic geophysical information for oil and gas exploration, sought a waiver of these technical requirements. Specifically, it requested authorization to operate in an area of Alaska’s North Slope on 217/219 MHz frequencies with six watts output power on 200-kilohertz and 800-kilohertz channels. In 2009, the Wireless Telecommunications Bureau’s Mobility Division (“Division”) granted the waiver request and application.⁶

4. Veritas now seeks authorization to operate in an area of Pennsylvania on 217/219 MHz

¹ FCC File No. 0003910489, Exhibit A – Request for Limited Waiver of Power and Bandwidth Requirements of 47 C.F.R. § 90.259(a) (filed July 23, 2009) (“Veritas Waiver Request”).

² FCC File No. 0003952441, Request for Limited Waiver of Power and Bandwidth Requirements of 47 C.F.R. Part 90.259(a)(4) & 90.259(a)(7) (filed September 1, 2009) (“Pro Xplor Waiver Request”).

³ See Reallocation of the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, *Notice of Proposed Rule Making*, ET Docket No. 00-221, 15 FCC Rcd 22657, 22662 ¶ 11 (2000).

⁴ See 47 C.F.R. § 90.259(a).

⁵ 47 C.F.R. § 90.259(a)(4), (8).

⁶ See CGG Veritas Land, Inc., *Order*, 24 FCC Rcd 4641 (WTB MD 2009) (*Veritas Waiver Order*), *recon. dismissed*, 25 FCC Rcd 4897 (WTB MD 2010), *review pending*.

frequencies with up to six watts output power on 200-kilohertz, 250-kilohertz, and 800-kilohertz channels. Separately, Pro Xplor seeks authorization to operate in parts of Arkansas, Louisiana, and Texas on 217/219 MHz frequencies with up to fifteen watts output power on 600-kilohertz and 800-kilohertz channels.

5. *Discussion.* We may grant a request for waiver when (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁷ We conclude that neither Veritas nor Pro Xplor has justified a waiver under this standard.

6. The underlying purpose of the technical limits in Section 90.259(a) is to ensure that secondary telemetry licensees do not cause interference to primary licensees.⁸ In the *Veritas Waiver Order*, the Division found that Veritas was unlikely to cause interference to primary services for two reasons. First, the Division found that the wider bandwidth Veritas proposed to use resulted in a spectral density being no greater than that associated with telemetry equipment that complied with the technical requirements in Section 90.259, despite the proposed higher power.⁹ Second, Veritas proposed to operate in a remote area of Alaska where primary services were not currently operating and not scheduled to operate for some time.¹⁰ In addition, the Division found that grant of the requested waiver would be in the public interest because Veritas would operate in remote, extreme regions where it is impractical and unsafe to send technicians to each remote geophysical telemetry terminal, because winter temperatures can drop to -56 degrees Fahrenheit and the hazardous, unoccupied terrain has no roads, emergency shelters, or medical facilities.¹¹

7. In the instant applications, neither applicant proposes to operate in a highly remote area where no primary services currently operate or may be scheduled to operate in the near future, and where conditions render it impractical and unsafe to send technicians to each remote geophysical telemetry terminal.¹² The Division granted Veritas's prior waiver request because of the unique circumstances presented by its proposed operations in Alaska.¹³ Neither of the instant applications sets forth a similar

⁷ 47 C.F.R. § 1.925(b)(3).

⁸ See *Veritas Waiver Order*, 24 FCC Rcd at 4642 ¶ 7 (citing Amendments to Parts 1, 2, 27, and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, *Report and Order*, WT Docket No. 02-8, 17 FCC Rcd 9980, 10034-35 ¶ 141 (2002)).

⁹ See *id.* at 4644 ¶ 8.

¹⁰ See *id.* at 4644 ¶ 9.

¹¹ See *id.* at 4644 ¶ 10. With the proposed equipment system, personnel do not have to venture into the field merely to download data, and are dispatched only when a remote terminal needs to be moved or repaired.

¹² Pro Xplorer indicates that its operations will be conducted "in extremely rural areas." See Pro Xplor Waiver Request at 1. We have not evaluated all of Pro Xplorer's requested locations, but we note that Houston (location 6) is not rural. We also note that Pro Xplorer's application is defective in that it requests service areas with a radius of seventy-five miles, while Section 90.259 does not permit wide-area operations with a radius exceeding fifty miles. See 47 C.F.R. § 90.259(a)(6); Amendments to Parts 1, 2, 27, and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands, *Report and Order*, WT Docket No. 02-8, 17 FCC Rcd 9980, 10000 ¶ 45 (2002).

¹³ The Commission previously has noted that operations in remote areas of Alaska can present unique circumstances that merit a waiver of the Commission's Rules. See, e.g., Larry D. Mayes, *Letter*, 24 FCC Rcd 11572, 11573 (WTB (continued....))

argument for why a waiver grant would further the public interest.¹⁴ We therefore deny both requests.

8. *Conclusion.* In summary, the waiver granted in the *Veritas Waiver Order* was based operations to be conducted in the extreme conditions of the Alaskan North Slope. The instant waiver requests of Veritas and Pro Xplor assert no equivalent claim. Therefore, we find that the waiver requests are not justified, and thus we deny both requests.

9. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.934 of the Commission's Rules, 47 C.F.R. § 1.934, that the waiver requests filed in association with application FCC No. 0003910489 filed by CGG Veritas Services (U.S.), Inc. on July 23, 2009, and FCC No. 0003952441 filed by Pro Xplor Services, Inc. on September 1, 2009 ARE DENIED, and the applications SHALL BE DISMISSED.

10. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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MD 2009); Bristol Bay Cellular Partnership, *Order*, 22 FCC Rcd 21500, 21501-02 ¶¶ 4-5 (WCB 2007); State of Alaska, *Memorandum Opinion and Order*, 18 FCC Rcd 116315, 16325-26 ¶ 17 (WTB 2003).

¹⁴ We thus disagree with Veritas's statement that its instant request is "identical" to that granted in the *Veritas Waiver Order*. See Veritas Waiver Request at 1.